

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARC WILLIAMS,)	CASE NO. 1: 16 CV 42
)	
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	<u>OPINION AND ORDER</u>
MICHELLE MILLER,)	
)	
Respondent.)	

CHRISTOPHER A. BOYKO, J.:

Pro se Petitioner Marc Willims has filed this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, challenging his 2012 convictions, pursuant to a guilty plea, of Rape and Kidnapping with Sexual Motivation in the Cuyahoga County Court of Common Pleas.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground he is custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). An Application for a Writ of Habeas Corpus shall not be granted unless it appears that the Petitioner “has exhausted all remedies available in the courts of the State.” 28 U.S.C. § 2254(b).

Petitioner raises one ground for relief in his petition: that he was denied his constitutional rights during sentencing on his plea. However, Petitioner indicates in his Petition that a post-conviction motion, and/or a habeas corpus petition, in which he raised this ground are still pending in Ohio courts. (*See* Petition at ¶¶11(d) and (e) regarding state post-conviction proceedings and other relief). Thus, this Petition is premature as the Petitioner has not fully exhausted his state court remedies.

Conclusion

Accordingly, the Petitioner's Request to Proceed In Forma Pauperis (Doc. No. 2) is granted, but for the reasons stated above, his Petition for a Writ of Habeas Corpus is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith and that there is no basis on which to issue a certificate of appealability.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE

DATED: January 26, 2016